

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to child care services  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 234.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6.

*Purpose and Summary*

Chapter 170 was reviewed as part of the Department’s five-year rules review. This proposed rule making removes all references to the term “relatives” because this term has no standing in the child care assistance program. The proposed rule making includes language relating to eligibility for child care for foster children to reflect a recent policy change.

The definition of “PROMISE JOBS” is proposed to be updated to be consistent with the definition in Chapter 40. References are proposed to be added to the definition of “child with special needs” to clarify where the definitions of “qualified intellectual disability professional” and “mental health professional” can be found. The names of forms are proposed to be removed to eliminate unnecessary future changes as form names change. The proposed rule making updates a reference to Iowa’s Food Assistance Program to the Supplemental Nutrition Assistance Program (SNAP) to be consistent with the name of the federal program.

A provider who disagrees with the calculation of a half-day rate may request a review of that decision. After sending a written request to the service area manager and receiving a response, the provider could then file a disagreement with the Bureau of Child Care Services. This proposed rule making updates the name of the bureau, which handles the review of the service area manager’s decision. Requirements of notices of adverse action have been moved from Chapter 7 to Chapter 16. This chapter is proposed to be updated to reflect that change.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

### Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

### Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **441—Chapter 170**, preamble, as follows:

#### PREAMBLE

The intent of this chapter is to establish requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training<sub>;</sub> or employed or looking for employment<sub>;</sub> or ~~for a limited period of time~~, unable to care for children due to physical or mental illness<sub>;</sub> or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered child development home, ~~the home of a relative~~, the child’s own home, or a nonregistered family child care home.

ITEM 2. Rescind the definition of “Relative” in rule **441—170.1(237A)**.

ITEM 3. Amend rule **441—170.1(237A)**, definitions of “Child with protective needs,” “Child with special needs,” “PROMISE JOBS,” “Provider” and “Provider error,” as follows:

“*Child with protective needs*” means a child who is ~~not~~ in foster care ~~and~~ or has a case file that identifies child care as a safety or well-being need to prevent or alleviate the effects of child abuse or neglect. Child care is provided as part of a safety plan during a child abuse or child in need of assistance assessment or as part of the service plan established in the family’s case plan. The child must have:

1. An open child abuse assessment;
2. An open child in need of assistance assessment;
3. An open child welfare case as a result of a child abuse assessment;
4. A petition on file for a child in need of assistance adjudication; or
5. Adjudication as a child in need of assistance.

“*Child with special needs*” means a child with one or more of the following conditions:

1. The child has been diagnosed by a physician or by a person endorsed for service as a school psychologist by the Iowa department of education to have a developmental disability which substantially

limits one or more major life activities, and the child requires professional treatment, assistance in self-care, or the purchase of special adaptive equipment.

2. The child has been determined by a qualified intellectual disability professional as defined in rule 441—83.60(249A) to have a condition which impairs the child’s intellectual and social functioning.

3. The child has been diagnosed by a mental health professional as defined in rule 441—24.1(225C) to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child’s age, or which significantly interferes with the child’s intellectual, social, or personal adjustment.

“*PROMISE JOBS*” means the department’s work and training program, promoting independence and self-sufficiency through employment job opportunities and basic skills, as described in 441—Chapter 93.

“*Provider*” means a licensed child care center, a registered child development home, ~~a relative who provides care in the relative’s own home solely for a related child~~, a caretaker who provides care for a child in the child’s home, or a nonregistered child care home.

“*Provider error*” means and may result from:

1. to 4. No change.

5. Failure to maintain a copy of Form 470-4535, ~~Child Care Assistance Billing/Attendance Provider Record~~, signed by the parent and the provider.

ITEM 4. Adopt the following new subparagraph **170.2(1)“b”(5)**:

(5) Child care services for licensed foster parents who need child care for foster children are provided without regard to income.

ITEM 5. Amend subparagraph **170.2(1)“d”(10)** as follows:

(10) The value of the ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) allotment under the Food and Nutrition Act of 2008.

ITEM 6. Amend subparagraph **170.2(2)“b”(5)** as follows:

(5) The parent is looking for employment. Child care for job search hours shall be limited to only those hours the parent is actually looking for employment, including travel time. Job search shall be limited to a maximum of 90 consecutive calendar days.

1. For applicants, job search shall be approved for a maximum of 90 consecutive calendar days. If the parent has not started employment within 90 days, assistance shall be canceled.

2. For ongoing participants, job search shall be limited to a maximum of 90 consecutive calendar days and will be treated the same as a temporary lapse in need as described at ~~170.2(2)“b”(9) and (10)~~ subparagraphs **170.2(2)“b”(10)** and (11).

ITEM 7. Renumber subparagraphs **170.2(2)“b”(9)** and (10) as **170.2(2)“b”(10)** and (11).

ITEM 8. Adopt the following new subparagraph **170.2(2)“b”(9)**:

(9) The parent is a licensed foster parent who needs child care for foster children.

ITEM 9. Amend paragraph **170.2(2)“d”** as follows:

*d. Citizenship.* As a condition of eligibility, the applicant shall attest to the child’s citizenship or alien status by signing Form 470-3624 or 470-3624(S), ~~Child Care Assistance Application~~, or Form 470-0462 or 470-0462(S), ~~Health and Financial Support Application~~. Child care assistance payments may be made only for a child who:

(1) and (2) No change.

ITEM 10. Amend subrule 170.2(3), introductory paragraph, as follows:

**170.2(3) Priority for assistance.** Child care services shall be provided only when funds are available. Funds available for child care assistance shall first be used to continue assistance to families currently receiving child care assistance and to families with protective child care needs or licensed foster parents who need child care for foster children. When funds are insufficient, families applying for services must meet the specific requirements in this subrule.

ITEM 11. Adopt the following new subparagraph **170.2(3)“b”(5)**:

(5) Licensed foster parents who need child care for foster children.

ITEM 12. Amend paragraph **170.3(1)“a”** as follows:

a. Application for child care assistance may be made at any local office of the department on:

(1) Form 470-3624 or 470-3624(S), ~~Child Care Assistance Application, or~~

(2) ~~Form 470-0462 or 470-0462(S), Health and Financial Support Application, or~~

(3) (2) Form 470-4377 or 470-4377(S), ~~Child Care Assistance Review~~, when returned after the end of the certification period.

ITEM 13. Adopt the following new paragraph **170.3(2)“f”**:

f. Licensed foster parents who need child care for foster children.

ITEM 14. Amend subparagraph **170.3(3)“a”(2)** as follows:

(2) Inform the family’s provider through the notice of decision or through Form 470-4444, ~~Certificate of Enrollment~~.

ITEM 15. Amend subparagraph **170.3(3)“c”(3)** as follows:

(3) For a family with protective service needs, the effective date of assistance shall be the date the family signs Form 470-0615 or 470-0615(S), ~~Application for All Social Services~~.

ITEM 16. Amend paragraph **170.3(5)“b”** as follows:

b. The department shall use information gathered on Form 470-4377 or 470-4377(S), ~~Child Care Assistance Review~~, to redetermine eligibility, except when the family is not required to complete a review form as provided in paragraph 170.3(5)“c.”

(1) and (2) No change.

ITEM 17. Amend paragraph **170.3(5)“c”** as follows:

c. Families who have children with protective needs, licensed foster parents who need child care for foster children, and families who are receiving child care assistance because the parent is participating in activities under the PROMISE JOBS program are not required to complete Form 470-4377 or 470-4377(S).

(1) and (2) No change.

ITEM 18. Amend paragraph **170.3(6)“b”** as follows:

b. Assistance shall be reinstated without a new application when the case was canceled for failure to provide requested information but all information necessary to determine eligibility, including verification of all changes in circumstances, is provided within 14 calendar days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the family shall have until the next business day to provide the information. The effective date of child care assistance shall be the date that all information required to establish eligibility is provided.

ITEM 19. Amend paragraphs **170.4(3)“a”** and **“b”** as follows:

a. *Licensed child care center.* A child care center shall be licensed by the department to meet the requirements set forth in 441—Chapter 109 and shall have a current ~~Certificate of License~~, Form 470-0618.

b. *Registered child development home.* A child development home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current ~~Certificate of Registration~~, Form 470-3498.

ITEM 20. Amend paragraph **170.4(3)“e”** as follows:

e. *In-home care.* The adult ~~caretaker~~ provider selected by the parent to provide care in the child’s own home shall be sent Form 470-2890 or 470-2890(S), ~~Payment Application for Nonregistered Providers~~. The provider shall complete and sign Form 470-2890 or 470-2890(S) and return the form to the department before payment may be made. An identifiable application is an application that contains a legible name and address and that has been signed. Signature on the form certifies the provider’s

understanding of and compliance with the conditions and requirements for nonregistered in-home care providers that include:

(1) to (4) No change.

ITEM 21. Amend paragraph **170.4(3)“h”** as follows:

*h. National criminal history record checks for in-home care.* If a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form DCI-45, ~~Waiver Agreement~~, and Form FD-258, ~~Federal Fingerprint Card~~.

(1) to (5) No change.

ITEM 22. Amend subrule 170.4(7), introductory paragraph, as follows:

**170.4(7) Payment.** The department shall make payment for child care provided to an eligible family when the family reports their choice of provider to the department and the provider has a completed Form 470-3871 or 470-3871(S), ~~Child Care Assistance Provider Agreement~~, on file with the department. Both the child care provider and the department worker shall sign this form.

ITEM 23. Amend subparagraph **170.4(7)“f”(2)** as follows:

(2) When dissatisfied with the response, the provider may, within 15 calendar days of the response, request a review by the chief of the bureau of ~~financial support~~ child care services chief. The provider shall submit to the bureau chief the original request, the response received, and any additional information desired. The bureau chief shall render a decision in writing within 15 calendar days of receipt of the request.

ITEM 24. Amend subparagraphs **170.4(7)“g”(1)** and **(2)** as follows:

(1) Using Form 470-4534, ~~Child Care Assistance Billing/Attendance~~; or

(2) Using an electronic request for payment submitted through the KinderTrack system. Providers using this method shall print Form 470-4535, ~~Child Care Assistance Billing/Attendance Provider Record~~, to be signed by the provider and the parent. The provider shall keep the signed Form 470-4535 for a period of five years after the billing date.

ITEM 25. Amend subrule 170.5(1) as follows:

**170.5(1) Provider agreement.** The department may refuse to enter into or may revoke ~~the Child Care Assistance Provider Agreement~~, Form 470-3871 or 470-3871(S), if any of the following occur:

*a. to d.* No change.

*e.* The provider fails to comply with any of the terms and conditions of ~~the Child Care Assistance Provider Agreement~~, Form 470-3871 or 470-3871(S).

*f. to h.* No change.

ITEM 26. Amend subrule 170.5(5) as follows:

**170.5(5) Provider agreement sanction.** If a ~~Child Care Assistance Provider Agreement~~, Form 470-3871 or 470-3871(S), is terminated for any of the reasons in subrule 170.5(1), the agreement shall remain terminated for the time periods set forth below:

*a. to d.* No change.

ITEM 27. Amend rule 441—170.6(237A) as follows:

**441—170.6(237A) Appeals.** Notice of adverse actions ~~and the~~ action shall be given in accordance with 441—Chapter 16. The right of to appeal shall be given in accordance with 441—Chapter 7.

ITEM 28. Amend paragraph **170.9(6)“b”** as follows:

*b.* The department of inspections and appeals shall initiate recoupment by notifying the debtor of the overpayment on Form 470-4530, ~~Notice of Child Care Assistance Overpayment~~.